

REMARKS

As presently amended the scope of the claimed composition has been restricted to the phosphorous compound conforming to formula (I) and to certain thermoplastic compositions containing the same.

Applicants confirm that the Examiner's presumption relative to the ownership of the invention set forth in paragraph 2 of the Office Action.

The claims stand rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/07782 (corresponding to U.S. Patent 6,569,930) or WO 00/31173 (corresponding to U.S. Patent 6,596,794).

WO 99/07782 disclosed a molding composition containing an aromatic phosphorous compound the bridging group of which "Y" (page 3, line 19) representing a large number of embodiments including isopropylidene and cycloalkylene. Nothing in the document points to any difference between the properties of the respective compositions attributable to the different "Y" groups. WO 00/31173 disclosed flame resistant polycarbonate ABS molding compositions that contain a phosphorous compound. The disclosed bridging group "Y" of the referenced phosphorous compound (page 17, line 1) and its present relevance are similar to the corresponding disclosure in WO 99/07782.

The data included in the present application, Table 1, page 33, clearly demonstrate the surprising and unexpected difference between the different "Y" groups in the context of the present invention. The table below is an extract of Table 1:

Example	V1	1	V2	2
Phosphorous compound	BDP	(I)	BDP	(I)
Vicat	96	104	102	110

Examples V1 (comparative example) and 1 are substantially similar one to the other in terms of their constituents and their relative amounts. (Examples V2 (comparative) and 2 are similarly related.) The included phosphorous compound in Example V1 is an oligophosphate based on bisphenol A (designated BDP) corresponds to the referenced phosphorous compound where "Y" is isopropylidene. The phosphorous compound in Example 1 (and Example 2) - designated (I) - is the one presently claimed. The difference between the Vicat temperatures of the respective compositions is attributable to the structural differences between the phosphorous compound, a result that in view of the cited art is surprising and unexpected.

The rejection alleging obviousness is believed addressed and overcome by the above.

The claims stand rejected under the doctrine of obviousness type double patenting over (i) Claims 1-20 of U.S. Patent 6,569,930 and (ii) Claims 1-20 of U.S. Patent 6,596,794.

Applicants note that a terminal disclaimer in respect to U.S. Patent 6,569,930 has already been filed in the prosecution of the parent application - see Amendment mailed March 12, 2004. (For the record there are 15 claims in U.S. Patent 6,569,930.)

Enclosed herewith is a terminal disclaimer respecting U.S. Patent 6,596,794 believed to address and overcome the double patenting rejection.

Believing the above represent a complete response to the Office Action and that the application is in condition for allowance, Applicants request the earliest issuance of an indication to this effect.

Respectfully submitted,

By



Aron Preis
Attorney for Applicants
Reg. No. 29,426

Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3814
FACSIMILE PHONE NUMBER:
(412) 777-3902
s:\shared\jmf\AP6742